

10/550139

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)


(PCT Article 36 and Rule 70)

REC'D 14 OCT 2005
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Applicant's or agent's file reference P16744PC00	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/SE2004/000432	International filing date (day/month/year) 22.03.2004	Priority date (day/month/year) 21.03.2003	
International Patent Classification (IPC) or national classification and IPC G21K1/06			
Applicant			

- This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.
- This report is also accompanied by ANNEXES, comprising:
 - ☐ sent to the applicant and to the International Bureau) a total of sheets, as follows:
 - ☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

- This report contains indications relating to the following items:
 - ☒ Box No. I Basis of the opinion
 - ☐ Box No. II Priority
 - ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Box No. IV Lack of unity of invention
 - ☐ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Box No. VI Certain documents cited
 - ☒ Box No. VII Certain defects in the international application
 - ☒ Box No. VIII Certain observations on the international application

Date of submission of the demand 21.10.2004	Date of completion of this report 13.10.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Korb, W Telephone No. +49 89 2399-2284



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/SE2004/000432

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-13 as originally filed

Claims, Numbers

1-19 as originally filed

Drawings, Sheets

1/5-5/5 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/SE2004/000432

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 1-19

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (specify):

☒ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. 1-19 are so unclear that no meaningful opinion could be formed (*specify*):

see separate sheet

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☐ no international search report has been established for the said claims Nos.

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/SE2004/000432

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/SE2004/000432

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. In view of the objections given under item VIII ("Certain Observations ...") it is not at present practicable to carry out a full examination of the application. The applicant is therefore requested to file suitable amendments upon which the further prosecution of the application is to be based.
2. With regard to claim 1 the following preliminary opinion is given:

Reference is made to the following document:

D1: SE 514 223 C2

The disclosure of document D1 anticipates a refractive element as claimed in claim 1 (see D1, figure 4, claims 1, 6). In consequence the requirements of Article 33(2) PCT are not met.

Re Item VII

Certain defects in the international application

1. The document D1 has not been identified in the description nor has the relevant background art disclosed therein been discussed. The requirements of Rule 5.1(a)(ii) PCT are, thus, not fulfilled.
2. If new claims are filed the applicant should bring the description into conformity with the claims in order to fulfil the requirements of Rule 5.1 (a)(ii)(iii) PCT.
3. It is considered appropriate to draft a single independent claim in the two-part form as required by Rule 6.3(b) PCT, whereby the features already known from the nearest state of the art should be placed in the preamble.

Re Item VIII

Certain observations on the international application

1. The claims of the application include three independent claims (claims 1, 8, 19).

These three claims cannot be accepted, because it is not clear what should be the subject-matter for which protection is sought. **These three claims do therefore not conform with the requirements of Article 6 PCT as to clarity (cf. Rule 6.1(a) and Rule 6.4 PCT).**

In particular each of claims 1 and 8 related to a device indicates another set of essential features, such that, even on the proper interpretation of the description, it does not become clear which features should be regarded as being essential to the subject-matter claimed. Furthermore the method claimed in claim 19 does not include any features necessarily interrelated with the claims directed to a device.

2. The three independent claims can also be interpreted as being not acceptable, because it cannot be seen **what is the single general inventive concept behind them. These three claims do therefore not conform with the requirements of Rule 13 PCT as to unity.**

Insofar as the present text can be understood, the only features common to the independent claims 1 and 8 are already known from the document D1 (see D1, figure 4, claims 1, 6) and claim 19 does not include any features necessarily interrelated with the claims directed to a device while being likewise apparently anticipated by the disclosure of D1. In consequence there is no new and inventive single general concept linking together the three independent claims.

3. Dependent claims 2 - 7, 9 - 18 not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not defined, because these claims refer to one of the independent claims 1, 8 directly or indirectly.